IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 1138 (S/S) 2006

Kushal Singh Negi S/o late Pooran Singh Negi,
Working as Assistant Development Officer (Panchayat)
Block Development Office, Haldwani,
Nainital. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary, Panchayati Raj, Uttaranchal Sashan, Dehradun.
2. Director Panchayati Raj, Uttaranchal, Dehradun,
3. Chief Development Officer, Nainital,
4. District Panchayati Raj Officer, Nainital
5. Block Development Office, Haldwani, Nainital,
6. Sri J.C. Pant, Assistant Development Officer (Panchayat), Block Development Office, Ramnagar, Nainital.

.....Respondents.

Sri M.C. Kandpal, learned Sr. Counsel for the petitioner,
Sri N.P. Sah, learned Standing Counsel for State/respondent nos. 1 to 5.

Hon'ble M.M. Ghildiyal, J.

Heard Sri M.C. Kandpal, learned Senior Counsel assisted by Sri S.S. Chaudhary, learned counsel for the petitioner and Sri N.P. Sah, learned Standing Counsel for the State/respondent nos. 1 to 5.

In spite of sending notice, none is present on behalf of respondent no.6.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

I. Issue a writ, order or direction in the nature of certiorari quashing the order dated 17.08.2006 passed

by the Chief Development Officer, District Nainital (annexure no.3),

II. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent authorities to permit the petitioner to continue on the post of Assistant development Officer, (Panchayat) in Block Development Office, Haldwani, Nainital and pay the regular monthly salary,

III. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case,

IV. Award the cost of the petition in favour of the petitioner.

Vide order dated 17.08.2006, the Chief Development Officer, Nainital has transferred the petitioner from Haldwani to Betalghat district Nainital. This order has been assailed on various grounds.

On 22.08.2006, this Court while issuing notice to the parties, passed order to the following effect:-

"In para-9 & 10 of the writ petition, the petitioner has submitted that three persons including one Sri J.C. Pant, were transferred in the month of July 2006. However, they were not relived for their new place of posting. In the meantime, Sri J.C. Pant, managed to amend his earlier transfer order by which he was transferred form Ramnagar to Ramgrah and Sri J.C. pant has been transferred from Ramnagar at Haldwani, which resulted into the transfer of the petitioner form Haldwani to Betalghat. Submission of the petitioner is that he has been transferred only to adjust Sri J.C. Pant at Haldwani. The issue requires scrutiny, consequently, I direct the respondents not to relive petitioner till next date of listing, in case, he has not already been relived from the present place of posting."

Counter affidavit has been filed by the State, however the respondents have given no specific reasons in regard to the allegation made by the petitioner and it is nowhere declined that the petitioner has been transferred to Betalghat only to adjust Sri J.C. Pant. The petitioner has submitted that pursuant to the stay order he is continuing at Haldwani.

In the circumstances of the case and in the interest of justice, I deem it fit and proper to dispose of the writ petition with the direction to the respondents not to disturb the petitioner till 31st May 2007 or till annual transfers are made in the Department, whichever is earlier.

With this direction, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

February 22, 2007:
NCM: